IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE CRIMINAL JURISDICTION

CRIMINAL WRIT PETITION NO.1800 OF 2006

Harvinder @ Monu Ravinder Singh Sarai..Petitioner

versus

State of Maharashtra & anr ... Respondents

Mr.O.A.Oza,Advocate for Petitioner

Mr.S.R.Borulkar,P.P.for Respondents

CORAM : J.N.PATEL AND

SMT.ROSHAN DALVI, JJ

DATED : 19th September, 2006

P.C.

1. Heard.

2. The petitioner has approached this Court for seeking a declaration that section 3 of the

M.P.D.A. Act, 1981 is ultra virus and therefore, the order of detention passed by the detaining authority against him be quashed and set aside and so also further steps taken by the detaining authority under section 7 of the said Act.

3. The crux of the argument is that the unlawful activities of the petitioner which forms part of the detention order does not fall within the ambit of public order.

4. We find that the petitioner against whom, the order of detention has been passed is keeping away in order to avoid service of the said order and that is how the proceedings under section 7 of the M.P.D.A.Act has been initiated against him.

5. Therefore, in the facts and circumstances of the case, we are not inclined to entertain this petition as the petitioner can very well challenge the detention order after making himself available to the authorities rather than complicating the issue.

6. Petition is dismissed.

7. Mr.Oza, learned counsel for the petitioner submits that the petitioner shall surrender before the detaining authority i.e. before the executing authority within a week's time. If the petitioner surrenders as stated on his behalf by the learned counsel for the petitioner, the executing authority would not take further steps into the matter as contemplated under section 7 of the said Act.

(Smt Roshan Dalvi,J) **(J.N.Patel, J)**